IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 19053 of 2005(R)

PETITIONER:

TITUS BENNY, S/O. BENNY,
MAMOOTTIL HOUSE, MADAKKAL P.O.,
IRUTTY, KANNUR DISTRICT.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS:

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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND,
KANNUR.

2. THE TAHSILDAR (R.R.), THALASSERRY.

BY ADV. SRI.PAULSON C.VARGHESE,SC,KMTWF BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 19053/2005

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF NOTICE ISSUED BY 2ND RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 19053 of 2005

Dated, this the 29th day of November, 2007

J U D G M E N T

Heard learned counsel for petitioner and learned standing counsel appearing for 1st respondent.

2. Petitioner has produced only one revenue recovery notice, namely Ext.P1, which is for recovery of an amount of around Rs.51,000/-. However, it is seen from the statement furnished by the 1st respondent that the said amount is only part of the welfare fund contribution due from petitioner. Statement furnished by the 1st respondent shows that petitioner was, admittedly, in operation of two stage carriages, bearing Regn. Nos.KL-13 C 9455 and KL-10 B 1751, from 1997 onwards. The first order determining liability was for a period of three years and the demand is stated to be for Rs.93,420/-. First respondent has clearly stated in the statement that all the employees, whose names are furnished in the statement, had given evidence and even though, petitioner also appeared, he did not deny the statement filed by the workers. It is seen from the statement that demand is raised for the years 2000-01 and 2001-02. Only claim of the petitioner is that he sold one of the vehicles in August 2001. However, it is seen from the demand

for the year 2001-02 that the amount demanded is only Rs.28,925/-, which obviously means that the sale of one vehicle is accepted by the 1st respondent and demand is limited for the other vehicle and for the sold vehicle only for the period up to the date of sale. Since demands are based on evidence and petitioner has not controverted the evidence furnished by the employees, there is no scope for interference with the recovery proceedings.

3. It is seen from the judgment in connected case, WP(C) No.15987/06, that the vehicle bearing Regn.No.KL-13 C 9455 was seized by the police at some point of time and on account of default, the Financier approached this Court for release of the vehicle. This Court directed release of the vehicle, but taking into account the liabilities of the registered owner, this Court directed the Financier to pay the arrears of tax and welfare fund dues, and if the Financier has paid these amounts, then they will be entitled to proceed to recover the amount from the registered owner, namely the petitioner. In the circumstances, there will be direction to the respondents to credit the amount of welfare fund contribution received from the Financier and recover only the balance amount from the petitioner. There will also be a direction to the Executive

Officer to verify the date of seizure of the vehicle by the police and if demand of welfare fund contribution is raised after the seizure of the vehicle, he will rectify the same by limiting the demand up to the date of seizure of the vehicle. Petitioner will produce copy of this judgment for compliance.

4. This writ petition is disposed of leaving freedom to the respondents to proceed for recovery against the petitioner, if arrears are not paid.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg